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From:

Sent: Tuesday, March 31, 2009 1:03:32 PM

To:

Cc:

Subject: RE: DATS Shelter Project

How about the below? Note that, except where the 40% gross valuation misstatement penalty applies, section 6662A should be the primary penalty and section 6662 the secondary position. I have not tried to integrate the language for the two penalties to accomplish that, as I think you can readily do so.

It is determined that you are liable for a penalty under IRC § 6662A for a reportable transaction understatement. Generally, the penalty is 20 percent of the reportable transaction understatement; however, the penalty is 30 percent of the portion of any reportable transaction understatement **with respect** to which the disclosure requirement in IRC § 6664(d)(2)(A) was not met. You have not shown there was reasonable cause, and that you acted in good faith, with respect to the reportable transaction understatement or that any other exception to the penalty applies